timesunion.com

GE acts to prove PCB case

Company commissions studies to disprove harm to river that could be cited in damage claims

By **ERIN DUGGAN**, Capitol bureau
First published: Thursday, February 6, 2003

RELATED STORIES

- Forums focus on PCB treatment
- PCB project begins
- Sediment sampling for PCBs to begin
- River restoration eyed in PCB case

Anticipating a multimillion-dollar state and federal lawsuit for damages caused by the PCBs it discharged into the Hudson River, the General Electric Co. is continuing what some consider a series of pre-emptive studies to disprove scientific evidence that could be used against the company.

The most recent study, published last month by three GE-financed scientists, challenges claims that PCBs, or polychlorinated biphenyls, hurt the reproductive system of Hudson River striped bass. Observers say the study is among several that set the stage for the next Hudson River battle as a team of federal and state agencies build a Natural Resource Damage Claim against GE.

GE countered that the latest study is merely an example of the research it conducted and published during the past two decades to bring hard scientific fact into the emotional debate over the future of the Hudson River.

"We believe that well-designed, well-conducted studies are extremely valuable to getting to the truth," said GE Spokesman Mark Behan.

They will also be valuable in determining whether GE pays for more than the estimated $490 million dredging project, the largest ever undertaken in the United States.

If the coalition of Hudson River trustees -- made up of the state Department of Conservation, the National Oceanic and Atmospheric Administration and the U.S Fish and Wildlife Service -- can prove the PCBs caused damage beyond the pollution of the river, it can pursue a legal claim against the company.

"We're going to be evaluating potential injuries to a variety of natural resources," said Tom Brosnan, a member of NOAA's damage assessment team.

One likely claim stems from the ban on commercial fishing, and eating fish from the Hudson River.

"That's a direct loss of the use of the fish," said Brosnan, who added that claims typically increase the longer the damage lasts.

For about 30 years beginning in the late 1940s, GE's Fort Edward and Hudson Falls manufacturing plants pumped 1.3 million pounds of PCBs into the upper Hudson River, according to NOAA. Much of the PCBs were trapped behind the Fort Edward Dam, and when the dam was torn down in 1973, it released an estimated 1.3 million cubic yards of PCB-laden sediment downstream.

The federal Environmental Protection Agency estimates there is between 500,000 and 700,000 pounds of PCBs still trapped in river bottom sediment. Environmentalists, GE and other concerned groups spent years arguing over the best treatment for the polluted river. GE opposed dredging the river, which would remove the sediment from the bottom, saying it's expensive, unproven and could hurt the river further.

In the summer of 2001, the EPA found GE liable for the contamination, and the company was ordered, and has agreed, to pay for the cleanup of a 40-mile stretch of the river from Hudson Falls to Troy.

Preparation for the damages claim began in the mid-1990s, but could not move forward until the EPA made its ruling in 2001.

Twenty-eight studies will examine fish, birds, mammals, reptiles and water quality, among other issues, to assess the damage caused by the PCBs. GE is expected to have its own scientific evidence.

One difference in the findings, GE argues, is that research done in laboratory settings on small samples does not necessarily prove a case in nature.

"We have, for the last 25 years, conducted enormous amounts of field research on the Hudson River to evaluate the behavior of PCBs in the environment," Behan said.

Laboratory research suggests PCB exposure has an adverse effect on the reproductive systems of fish and wildlife of the Hudson River. But the striped bass study -- which used decades of data collected from the river -- found that in the actual setting, the population numbers were higher than they've been in 30 years, said Larry Barnthouse, the chief scientist on the study published in the Jan. 15 issue of Environmental Science & Technology. The study also examined the survival rates of striped bass eggs and larvae, using several independent sample numbers, Barnthouse said.

"Most tests are done in labs," he said. "That tells you about individual fish exposed in the laboratory. It doesn't tell you about fish exposed in nature, where a lot of other things happen that can enhance the effects of the chemical or dampen it out."

Although striped bass are not a species environmentalists are particularly concerned with (they live in the lower Hudson River and the Atlantic Ocean, so were expected to have a lower concentration of PCBs), restrictions on eating the fish have been in place for years.

The study doesn't make any recommendations on lifting the ban, but shows one area where the fish appear to be unaffected by PCBs.

"In spite of what people have measured in the lab and estimated and guessed about the possible effects of PCBs," Barnthouse said, "when you look at the real population, those

effects did not occur."

Behan said it corroborates other PCB studies GE has done.

"Well-designed field research such as the Barnthouse study gives us a view of PCBs in the environment that is not possible to get from hypothetical work or lab work," Behan said. "At the end of the day, it's about the facts and the science."

Behan would not address speculation that the studies will show up again during damage claim settlement talks or if the claim goes to court.

Others involved in the Hudson River project say GE's motive isn't to set the scientific record straight.

"I think they're trying to show that the resources of the Hudson River have not been damaged by PCBs, and that if the river is left alone, it will eventually recover," said Scenic Hudson Environmental Project Manager Rich Schiafo. "However, it has been 30 or 40 years since they stopped disposing of PCBs, and without remediation and assistance in its recovery, the resource will remain injured."

Brosnan said the three trustee groups have years of work to do before the claim will be ready.